

  
Councilmember Kathy Patterson

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Councilmember Kathy Patterson introduced the following bill, which was referred to the  
Committee on \_\_\_\_\_.

To amend Chapter 9 of Title 16 of the District of Columbia Official Code to reorganize and  
clarify the domestic relations laws concerning divorce, alimony, child support, and child  
custody; to require the consideration of tax consequences in the distribution of property  
and award of child support upon divorce; to allow the granting of term-limited alimony;  
to consolidate the provisions dealing with child custody into a single section; and to allow  
a divorce to become final 30 days after the decree is entered.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
act may be cited as the "Domestic Relations Laws Clarification Act of 2002".

Sec. 2. Chapter 9 of Title 16 of the District of Columbia Official Code is amended as  
follows:

(a) The table of contents is amended as follows:

(1) Strike the phrase "16-911. Alimony pendente lite; suit money; enforcement;  
custody of children." and insert the phrase "16-911. Pendente lite relief." in its place.

(2) Strike the phrase "16-913. Alimony when divorce is granted." and insert the

- phrase "16-913. Alimony." in its **place**. 1
- (3) Strike the phrase "16-914. Retention of jurisdiction as to alimony **and** 2  
custody of children." and insert the phrase "~~16-914.~~ Custody of children." in its **place**. 3
- (4) Add the phrase "16-914.01. Retention of jurisdiction as to alimony, **custody** 4  
of children, and child support." after the phrase "~~16-914.~~ Custody of **children.**". 5
- (5) Strike the phrase "16-920. Effective date of decree for annulment or **absolute** 6  
divorce." and insert the phrase "~~16-920.~~ Effective date of decree or judgment for annulment or 7  
absolute divorce" in its **place**. 8
- (6) Strike the phrase "16-924. Expedite judicial hearing." and insert the **phrase** 9  
"16-924. Expedited judicial hearing for child support." in its **place**. 10
- (b) Section 16-904(b) is amended as **follows**: 11
- (1) Paragraph (1) is amended by striking the semicolon at the end and inserting **the** 12  
phrase "~~;~~ or" in its **place**. 13
- (2) Paragraph (2) is amended by striking the semicolon at the end and inserting **a** 14  
period in its **place**. 15
- (3) Paragraph (3) is **repealed**. 16
- (4) Paragraph (4) is **repealed**. 17
- (c) Section 16-905(a) is amended by striking the word "divorce" and inserting the **phrase** 18  
"legal separation" in its **place**. 19
- (d) Section 16-910 is amended as **follows**: 20
- (1) The lead-in language is amended to read as **follows**: 21  
"Upon entry of a final decree of legal separation, annulment, or divorce, in the absence of 22

a valid ante-nuptial or post-nuptial agreement resolving all issues related to the property of the parties, the Court ~~shall~~:".

(2) Subsection (b) is amended to read as follows:

"(b) "Value and distribute all other property and debt accumulated during the marriage, regardless of whether title is held individually or by the parties in a form of joint tenancy or tenancy by the entireties, in a manner that is equitable, just and reasonable, after considering all relevant factors including, but not limited to: the duration of the marriage; the age, health, occupation, amount, and sources of income, vocational skills, employability, assets, debts, and needs of each of the parties; provisions for the custody of minor children; whether the distribution is in lieu of or in addition to alimony; a party's obligation from a prior marriage or for other children; the opportunity of each for future acquisition of assets and income; each party's contribution as a homemaker or otherwise to the family unit; a party's contribution to the education of the other party which enhanced the other's earning ability; a party's increase or decrease in income as a result of the marriage and/or duties of homemaking and childcare. The court shall also consider each party's contribution to the acquisition, preservation, appreciation, dissipation or depreciation in value of the assets which are subject to distribution; the taxability of these assets and whether the asset was acquired or the debt incurred after separation. The court, in valuing the assets subject to distribution, shall consider the effects of taxation on the value."

(e) Section 911 is amended as follows:

(1) The section heading is amended by striking the phrase "Alimony pendente lite; suit money; enforcement; custody of children." and inserting the phrase "Pendente lite relief." in

its place.

(2) Subsection (a) is amended as follows:

(A) Paragraph (1) is amended to read as follows:

"(1) require the husband or wife to pay pendente lite alimony to the other spouse; pendente lite child support for their minor children committed to the other spouses care; and suit money, including counsel fees, to enable such other spouse to conduct the case. The court may enforce any such order by attachment, garnishment, and/or imprisonment for disobedience. In determining pendente lite alimony for a spouse, the Court shall consider the factors set forth in section 16-912(d) and may make an award of pendente lite alimony retroactive to the date of the filing of the pleading that requests alimony."

(B) Paragraph (5) is amended to read as follows:

"(5) determine who shall have the care and custody of a minor child or children pending final determination in accordance with section 16-913."

(3) A new subsection (d) is added to read as follows:

"(d) The Court may order any other appropriate pendente lite relief."

(f) Section 16-912 is repealed.

(g) Section 16-913 is amended to read as follows:

"§ 16-913. Alimony.

"(a) When a divorce or legal separation is granted, the court may require either party to pay alimony to the other party if it seems just and proper.

"(b) Such award of alimony may be indefinite or term-limited and structured as appropriate to the facts. The court shall determine the amount and the time period for the award

of alimony.	1
"(c) An award of alimony may be retroactive to the date of the filing of the pleading that requests alimony.	2
"(d) In making the determination, the court shall consider all the factors necessary for a fair and equitable award, including:	3
"(1) The ability of the party seeking alimony to be wholly or partly self-supporting;	4
"(2) The time necessary for the party seeking alimony to gain sufficient education or training to enable that party to secure suitable employment;	5
"(3) The standard of living that the parties established during their marriage but giving consideration to the fact that there will be 2 households to maintain;	6
"(4) The duration of the marriage;	7
"(5) The circumstances which contributed to the estrangement of the parties;	8
"(6) The age of each party;	9
"(7) The physical and mental condition of each party;	10
"(8) The ability of the party from whom alimony is sought to meet his or her needs while meeting the needs of the other party; and	11
"(9) The financial needs and financial resources of each party, including:	12
"(A) Income;	13
"(B) Income from assets, both marital and non-marital;	14
"(C) Potential income which may be imputed to non-income producing assets of a party;	15
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"(D) Any previous award of child support in this ~~case~~; 1

"(E) The financial obligations of each ~~party~~; 2

"(F) The right of a party to receive retirement benefits; ~~and~~ 3

"(G) The taxability or non-taxability of ~~income~~.". 4

(h) Section 16-914 is amended as ~~follows~~: 5

(1) The section heading is amended by striking the phrase "Retention of 6

jurisdiction as to alimony and custody of children." and inserting the phrase "Custody of 7

children." in its ~~place~~. 8

(2) Subsection (a) is amended as ~~follows~~: 9

(A) Paragraph ~~(1)~~ is amended to read as ~~follows~~: 10

"~~(1)~~ In any proceeding in which the custody of a child is raised as an ~~issue~~, 11

whether or not within the context of a divorce, the best interest of the child shall be the ~~primary~~ 12

consideration. The race, color, national origin, political affiliation, sex or sexual orientation, of a 13

party, in and of itself, shall not be a conclusive ~~consideration~~. The court shall make a 14

determination as to the legal custody and the physical custody of a ~~child~~. Legal custody ~~includes~~ 15

the legal responsibility for the child and the right to make decisions regarding a child's ~~health~~, 16

education, and general welfare. Physical custody of a child is a determination of a ~~child's~~ 17

physical residency schedule. A custody order may ~~include~~: 18

"(A) Sole legal ~~custody~~; 19

"(B) Sole physical ~~custody~~; 20

"(C) Joint legal ~~custody~~; 21

"(D) Joint physical custody; ~~or~~ 22

"(E) Any other custody arrangement the court may determine is in the **best** 1  
interest of the **child**." 2

(B) Paragraph (3) is amended as **follows**: 3

(i) The lead-in language is amended by striking the phrase "**infant** 4  
children" and inserting the phrase "a child" in its **place**. 5

(4) Subparagraph (K) is amended by striking the phrase "**or** 6  
**children's**". 7

(3) Subsection (a-2) is **repealed**. 8

(4) New subsections (c), (d), (e), (f), (g), (h), (i), and (j) are added to read **as** 9  
**follows**: 10

"(c) In any custody proceeding under this chapter, the court may order each parent to 11  
submit a detailed parenting plan which shall delineate each parent's position with respect to the 12  
scheduling and allocation of rights and responsibilities that will best serve the interest of the 13  
minor child or **children**. The parenting plan may include, but shall not be limited to, **provisions** 14  
**for**: 15

"(1) The residence of the child or **children**; 16

"(2) The financial support based on the needs of the child and the actual **resources** 17  
of the **parent**; 18

"(3) **Visitation**; 19

"(4) Holidays, birthdays, and vacation **visitation**; 20

"(5) Transportation of the child between the **residences**; 21

"(6) **Education**; 22

"(7) Religious training, if <del>any</del> ;	1
"(8) Access to the child's educational, medical, psychiatric, and dental <del>treatment</del>	2
<del>decisions</del> ;	3
"(9) Except in emergencies, the responsibility for medical, psychiatric, and <del>dental</del>	4
treatment <del>decisions</del> ;	5
"(10) Communication between the child and the parents; <del>and</del>	6
"(11) Resolving conflict such as a recognized family counseling or <del>mediation</del>	7
service before application to the court to resolve a <del>conflict</del> .	8
"(d) The court, in making its custody <del>determination</del> :	9
"(1) Shall consider the parenting plans submitted by the parents in evaluating <del>the</del>	10
factors set forth in subsection (h) of this section in fashioning a custody <del>order</del> ;	11
"(2) Shall designate the parent(s) who will make the major decisions <del>concerning</del>	12
the health, safety, and welfare of the child that need immediate attention; <del>and</del>	13
"(3) May order <del>either or both</del> parents to attend parenting <del>classes</del> .	14
"(e) Joint custody shall not eliminate the responsibility for child support in <del>accordance</del>	15
with the applicable child support guideline as set forth in section 16-916.1.	16
"(f)(1) An award of custody may be modified or terminated upon the motion of one or	17
both parents, or on the court's own motion, upon a determination that there has been a <del>substantial</del>	18
and material change in circumstances and that such modification or termination is in the <del>best</del>	19
interest of the <del>child</del> .	20
"(2) When a motion to modify custody is filed, the burden of proof is on the <del>party</del>	21
seeking a change, and the standard of proof shall be by a preponderance of the <del>evidence</del> .	22



"(3) The provisions of this chapter shall apply to motions to modify or **terminate** any award of custody filed after the effective date of this **chapter**..

"(g) The court, for good cause and upon its own motion, may appoint a guardian ad **litem** or an attorney, or both, to represent the minor child's **interests**.

"(h) The court shall enter an order for any custody arrangement that is agreed to by **both** parents unless clear and convincing evidence indicates that such arrangement is not in the **best** interest of the minor **child**.

"(i) An objection by one parent to any custody arrangement shall not be the sole basis for refusing the entry of an order that the court determines is in the best interest of the minor **child**.

"(j) The court shall place on the record the specific factors and findings which justify **any** custody arrangement not agreed to by **both parents**."..

(i) A new section 16-914.01 is added to read as **follows**:

**"16-914.01. Retention of jurisdiction as to alimony, custody of children, and child support.**

**"After the issuance of a judgment, decree or order granting custody, child support, or alimony, the Court retains jurisdiction for the entry of future orders modifying or terminating the initial judgment, decree, or order to the extent such retention of jurisdiction does not contravene other statutory provisions."**

(j) Section 16-916.01 is amended as **follows**:

(1) Subsection (c) is amended as **follows**:

(A) Paragraph (17) is amended to read as **follows**:

**"(17) Spousal support received by either party with a corresponding reduction in the income of the paying party;"**..

(B) Paragraph (23) is amended by striking the word "or" at the ~~end~~. 1

(C) Paragraph (24) is amended by striking the period at the end ~~and~~ 2  
inserting the phrase "; or" in its ~~place~~. 3

(D) A new paragraph (25) is added to read as ~~follows~~: 4

"(25) Taxes paid on a party's income by an employer or, if the income is 5  
non-taxable, the amount of taxes that would be paid if the income were ~~taxable~~." 6

(2) Subsection (j) is amended by adding a new paragraph (3) to read as ~~follows~~: 7

"(3) For the purposes of this subsection, the terms "day-care cost" and "child ~~care~~ 8  
costs" include work or education related child care expenses, including camp and before and ~~after~~ 9  
school ~~care~~." 10

(3) Subsection (n) is amended by adding the following language after the ~~first~~ 11  
sentence: "In such shared custody situations, the judicial officer shall have the authority to ~~order~~ 12  
either parent to pay a portion of the following expenses for the ~~child~~: extracurricular ~~activities~~ 13  
and lessons, visitation, transportation, private school tuition, school fees, daycare, ~~camp~~, 14  
unreimbursed or uninsured health care expenses, and other such ~~expenses~~. Such payments ~~may~~ 15  
be in lieu of or in addition to any award of child ~~support~~." 16

(4) New subsections (s) and (t) are added to read as ~~follows~~: 17

"(s) Upon the occurrence of a substantial or material change in circumstances, ~~including~~ 18  
any increase or decrease in one or both parties' incomes, the Court may modify any provision ~~of~~ 19  
an agreement or settlement with respect to the support of a minor child, without regard to 20  
whether said agreement or settlement is entered as a consent order or is incorporated or ~~merged~~ 21  
in a court ~~order~~. 22

"(t) If an order or agreement providing for child support does not set forth a date on which the support commences, the support shall be deemed to commence on the date the order was entered or the date the agreement was executed.".

(k) Section 16-917 is repealed.

(l) Section 16-920 is amended as follows:

"§ 16-920. Effective date of decree or judgment for annulment or absolute divorce.

"A decree or judgment annulling or dissolving a marriage, or granting an absolute divorce shall become effective to dissolve the bonds of matrimony 30 days after the docketing of the decree or judgment unless a stay is granted by the Superior Court of the District of Columbia or the District of Columbia Court of Appeals. If the parties desire immediate finality, they may file a joint waiver of the right to appeal which will make the decree or judgment final upon docketing of the joint waiver.".

(m) Section 16-924 is amended by adding the phrase "for child support" after the phrase "Expedited judicial hearing" in the section heading.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of	11
Columbia <b>Register</b> .	2